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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,782	08/30/2001	Takashi Iwaki	35.C15730	7656

5514 7590 12/15/2006

FITZPATRICK CELLA HARPER & SCINTO
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NEW YORK, NY 10112

EXAMINER

MACCHIAROLO, PETER J

ART UNIT	PAPER NUMBER
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2879

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/941,782

Applicant(s)

IWAKI ET AL.

Examiner

Peter J. Macchiarolo

Art Unit

2879

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 16-30 and 33-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 16-30 and 33-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/22/2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application on 11/22/2006. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/22/2006 has been entered. An action on the RCE follows.

Allowable Subject Matter

The indicated allowability of the claims is withdrawn in view of the newly discovered reference to Kyogaku (USPN 6817915, "Kyogaku"). Rejections based on the newly cited reference follows below.

Applicant is advised that the Notice of Allowance mailed 10/02/2006 is vacated. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 11/22/2006 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner. The Examiner notes that USPN 6221426 to Yamanobe referred to

in the instant IDS has previously been cited and applied in a rejection of the office action filed 06/13/2006.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-3, 16-18, 21-23, and 29-36 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 6 of U.S. Patent No. 6817915 to Kyogaku et al ("Kyogaku").

Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-3 of the instant application recite a method for manufacturing an electron-emitting device, comprising the same limitations as recited in Kyogaku, with the exception of 1) Applicant's polymer film including a "carbon atomic bond" and 2) Kyogaku specifically recites that the light absorptance of the wirings is lower than that of the electrodes. However, 1) Kyogaku's specification has been used to define certain terms in the claims, specifically, the term, "polymer" has been defined as "one having at least a bond between carbon atoms." Therefore, one of ordinary skill in the art will appreciate that Applicant's carbon atomic bond is indeed recited in Kyogaku's claims. Furthermore, 2) one of ordinary skill in the art would be able to the device of Kyogaku without any regard to the light absorptance of the wirings, since this appears to have no structural bearing on the overall device.

Applicant's remaining claims are rejected by virtue of their dependency.

Response to Arguments

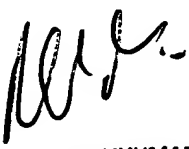
Applicant has not submitted any arguments in the previous submission which require a response.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. JP PUB 09-106760 issued to Kamishiro on 04/22/97 discloses a method of manufacturing an electron source much like that of previously cited Minami (USPN 6383047), i.e. a polymer in an evaporable fluid carrier, not a solid-state insulating polymer film including an atomic bond as recited by Applicant. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J Macchiarolo whose telephone number is (571) 272-2375. The examiner can normally be reached on 8:30 - 5:00, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimeshkumar Patel can be reached on (571) 272-2475. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


NIMESHKUMAR D. PATEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Respectfully submitted,

By 
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